

DOCKET NO. 03-0372

DIVISION OF CONSUMER ADVOCACY'S ("CA")

RESPONSES TO INFORMATION REQUESTS FILED BY HECO

HECO/CA-IR-1. **Ref: CA SOP, page 3, fourth bullet from the top of page 3.**
Please specifically identify what additional "innovative resource proposals" the CA anticipates will be forthcoming with the implementation of competitive bidding in Hawaii that have not in the past or are not at present being proposed by developers in Hawaii.

RESPONSE: The Consumer Advocate is not able to specifically identify the "innovative resource proposals" that would be advanced by bidders in future competitive bidding processes at this time. This is in part because the proposals would depend on the specific information pertaining to the identified resource need for which the proposal was submitted, which has not been provided by each utility in this proceeding. The specific resource needs of each utility are to be determined prior to developing each utility's IRP, based on information that will be made available by each utility.

The cited statement was offered to point out that a key benefit of competitive bidding resides in the fact that it creates an opportunity for persons – outside of the electric utility, Consumer Advocate, and others routinely involved in resource planning processes in Hawaii – to create and offer innovative resource options. If Hawaii's electric utilities will clearly identify their specific needs and state their interest in receiving proposals from third-party developers, they will create an opportunity for those with creative

ideas to develop and advance project proposals that might best meet the identified needs, possibly extending beyond the limits of what had been contemplated by the utility in framing its RFP.

HECO/CA-IR-2. **Ref: CA SOP, page 3, fifth bullet from the top of page 3.**
a. Please specifically identify all “barriers to developers with innovative resource proposals” that the CA claims to presently exist in Hawaii.

RESPONSE: The Consumer Advocate is not able to respond to this information request because the information needed to provide a response is not available in this docket. As noted in the response to HECO/CA IR-1, the specific proposals offered by developers will depend on each utility’s identified need for resources. The barriers that need to be overcome will likely vary with the proposals.

It is assumed that the most significant barrier to developers with innovative resource proposals is that Hawaii’s electric utilities currently serve as “gatekeepers” who control access to the market (i.e., ratepayers). In this role, utilities will often choose to advance their own or preferred proposals over all others and to advance specific resource options without any transparent consideration of alternatives that might better serve ratepayer interests. For example, in the Companies’ SOP the Companies indicated a desire to be allowed to exclude yet-to-be developed HECO, HELCO and MECO generation projects from the comparative analysis that can be achieved through competitive bidding process. Another example is HELCO’s desire to pursue the installation of the Company’s DTCC unit at the Keahole power plant, when at least two other IPPs sought to provide a resource that was intended to displace the need for the Company’s resource.

Another critical barrier might be access to information regarding an electric utility's needs. That is, resource developers might have difficulty learning what amounts of resource capacity exhibiting which resource characteristics a given utility may need at any particular point in time. This would make it difficult for them to advance resource proposals at the time that they truly are needed by the utility. Routine competitive solicitation processes would change that.

- b. For each of the specific barriers identified, please explain in detail how competitive bidding in Hawaii will remove each barrier.

RESPONSE: Competitive bidding, coupled with the Consumer Advocate's recommended improvements to the IRP processes in order to establish a solid foundation for competitive bidding, can establish fair, transparent processes in which all developers are able to advance their proposals in response to clearly identified utility resource needs.

HECO/CA-IR-3. **Ref: CA SOP, page 3, third bullet at the bottom of page 3.**

a. Please define "all-source bidding".

RESPONSE: The term "all-source bidding" is used here to refer to competitive processes that enable all supply- and demand-side resources to be considered in responding to an identified resource need.

b. FERC's use of "all source bidding" on page 13 of the CA's SOP, 3rd paragraph, appears to mean both QF and non-QF generators, rather than QFs alone. Does the CA agree? If not, why not?

RESPONSE: Yes, the Consumer Advocate acknowledges FERC's use of "all source bidding," as reflected in the referenced excerpt on page 13 of the Consumer Advocate's Statement of Position, means both QF and non-QF generators.

c. Does the CA favor "all-source" bidding?

RESPONSE: The Consumer Advocate favors all-source bidding when a utility's specific needs are such that a broad-based supply- and demand-side solicitation (i.e., through one or several RFPs) is likely to yield benefits.

d. If so, please specifically identify each of those resource options that would be eligible to bid.

RESPONSE: As a conceptual matter, all supply- and demand-side resources should be considered in response to an identified resource need. Any limitations would depend on the specific circumstances of a

solicitation. For example, an electric utility that feels that it is becoming overly dependent on a particular fuel source may choose to preclude proposals that would exacerbate the situation.

- e. Should all resource options be solicited using the same RFP and evaluated based on the same criteria? Please explain your response.

RESPONSE: Whether a single RFP could be used to solicit resources would depend on the specifics of an electric utility's resource need. As noted above, on occasion, there may be reason to exclude certain resource types from a solicitation. Moreover, practical considerations may limit an electric utility's ability to design and implement individual RFPs that solicit all types of resources. Separate but parallel supply- and demand-side RFPs may be appropriate in some circumstances.

The Consumer Advocate anticipates that RFP evaluation criteria will seek to ensure that resources are compared in like terms, to the extent feasible (whether or not a single RFP is issued). Resources that are selected should be those that will best meet an electric utility's identified resource needs. Thus, a measure of consistency between the evaluation criteria that will be applied to different resource types would be important.

HECO/CA-IR-4. **Ref: CA SOP, page 4, third bullet at the top of the page.**

The CA states that utilities must adhere to “best practices”.

- a. What specifically does the CA mean by “best practices” in regard to how competitive bidding processes are to be conducted?

RESPONSE:

In Section III.F. of its Statement of Position, the Consumer Advocate offers a set of recommendations that describe how competitive bidding processes are to be conducted. Among this set is a recommendation that the Commission ensure that “best practices” are adopted by each utility in the design and implementation of each RFP process that it conducts. As noted in footnote 29, best practices, as used here, refers to substantial experience, precedent and documentation within the industry addressing approaches to and methods for conducting competitive bidding for resources of various types. The utilities will have access to such sources in the industry (including, apparently, HECO’s consultant, the Merrimack Energy Group) with experience using bidding procedures that have been used to successfully conduct solicitations elsewhere.

Beyond the broad recommendations above, the Consumer Advocate has not defined the “best practices” that would apply to a competitive solicitation of any particular type. The reason is because the “best practices” can be expected to vary with the specific circumstances of each utility and each RFP, and over time. Please note that it is the Consumer Advocate’s recommendation

that the Commission not attempt to focus on a specific set of best practices, precisely for this very reason.

Appendix 2 includes information that serves as a sample illustration of the policies and procedures that may be considered in determining in the Commission's "best practices" requirement. Portland General Electric provides a summary of the major features of its "RFP for Energy and Capacity" on page 46 of 80. The discussion includes reference to (1) a "consultation with the OPUC and other participants in PGE's public resource planning process," (2) procedures for "reviewing, ranking and selecting bids," (3) use of an "independent, third-party observer to validate ... scoring criteria," (4) development of a short list of bidders, and (5) negotiations with bidders. These may not be among the best practices for all RFP processes. The examples, however, could certainly be considered as an illustration of how the bidding processes might be conducted.

- b. Please provide a full list with supporting references of what the CA considers to be "best practices" for competitive bidding.

RESPONSE: Please see the response to Part a. above.

- c. How would the “best practices” for competitive bidding in Hawaii be established and implemented? Please describe the mechanism for determining “best practices” and the parties that would have input in developing “best practices”.

RESPONSE: The Consumer Advocate anticipates that each electric company would be responsible for identifying and implementing best practices for each competitive bidding process implemented in response to an identified need. The utility would determine best practices by surveying and considering approaches taken by similarly-situated utilities in soliciting similar types of resources. Depending on circumstances, it also might be appropriate for the utility to seek advice from consultants and others within the industry who have expertise in the area of competitive bidding processes. Similarly, reports issued by those reviewing the implementation of solicitation processes also might serve as useful resources. Finally, implementation of best practices can be expected to require a measure of business acumen and common sense in identifying procedures likely to support fair, transparent solicitation processes.

- d. Does the CA consider the RFP process undertaken by Portland General Electric as referenced in Appendix 2 and Appendix 3 of its SOP to reflect “best practices”?

RESPONSE: Yes, to the extent that the process appears to have been deemed appropriate for Portland General Electric’s competitive bidding process. The determination as to what constitutes “best practices” for competitive solicitations by Hawaii’s electric utilities must be

made considering their specific circumstances and needs. As indicated in its Statement of Position at 57, the Consumer Advocate attached the Portland General Electric Company's January 2004 report on its IRP Action Plan to provide the Commission with an example of the approaches that can be implemented in response to utility needs of different types.

- e. If the response to part d is "no", please identify RFP processes that reflect "best practices."

RESPONSE: N/A.

HECO/CA-IR-5.

Ref: CA SOP, page 8.

The CA's SOP presents three reasons why competitive bidding was not contemplated in the early implementation of PURPA. Please provide specific support and underlying foundation for these conclusions.

RESPONSE:

The referenced discussion presents the Consumer Advocate's views on why competitive bidding was not contemplated by those who participated in the early implementation of PURPA. These statements reflect views advanced by consultants who had direct experience in implementing PURPA in the period 1978 to 1983.

HECO/CA-IR-6.

Ref: CA SOP, page 10.

Please provide a copy of the four reports listed in Footnotes 7 and 8 on page 10 of the CA's SOP.

RESPONSE:

The references are to the following reports, which are appended to this response:

- (A) Planning For Competition: Integrated Resource Planning and the Independent Power Industry (July 1993).
- (B) Bidding For Power: The Emergence of Competitive Bidding in Electric Generation (March 1990);
- (C) The August 1990 report by the United States General Accounting Office (GAO/RCED-90-182);; and
- (D) Competing For Power: A Survey on Competitive Procurement Systems and Blueprint for the Future (July 1991).

HECO/CA-IR-7.

Ref: CA SOP, page 12.

The CA discusses the inclusion of option concepts in competitive bidding (first full paragraph on page 12).

- a. Please describe in detail the types of applications for which option concepts could be applied in competitive bidding.

RESPONSE:

The discussion cited is intended to communicate that some more recent RFPs have been designed to give the issuing utility future choices with respect to important uncertainties in its circumstances. In addition to the example provided, in which an RFP gives the issuing utility the option to modify the project development schedule, there are other examples of the types of applications for which options for the issuing electric utility can be achieved through a competitive bidding process. For instance, an RFP could be designed to give a utility choice in whether to proceed with project development, choice in the dispatch of certain requested demand-side resources (i.e., dispatchable loads), choice in the terms under which it can call upon needed generating capacity, etc.

The Consumer Advocate has not performed a detailed analysis to determine all possible circumstances in which competitive bidding could, or should incorporate provisions that create options for the issuing utility. Any determination would depend on the specific facts pertaining to the identified need for resources. It would be the Consumer Advocate's recommendation that, where there are opportunities to improve the performance of a utility resource portfolio by giving the issuing utility choices in the

implementation and dispatch of those resources, consideration should be given to including such provisions in the design of an RFP.

- b. Are option concepts still used in competitive bidding processes today? If so, in which jurisdictions are they still used and describe in detail their level of success in each such jurisdiction?

RESPONSE: Certainly "options concepts" are common today. The Consumer Advocate has not conducted a survey of all jurisdictions in which competitive bidding processes that have allowed or employed options concepts, nor has the Consumer Advocate attempted to assess the level of success achieved in each. Indeed, any RFP that creates options for a utility would employ "options concepts." Even an RFP with an "out" clause that allows the utility to cancel the solicitation in response to unforeseen changes in short-term load forecasts incorporates an "options concept." By way of ready example, the ISO New England GAP RFP discussed in the Consumer Advocate's Statement of Position provided ISO New England with the options of calling upon both emergency generators and interruptible loads.

- c. Would such concepts be applicable for competitive bidding in Hawaii? If so, please explain how and why such concepts would be applicable in Hawaii and their projected level of success.

RESPONSE: Options concepts likely will have value to Hawaii's electric utilities. Whether to employ them will depend on the specific circumstances of each solicitation. If, for example, a utility sees a "50/50 chance" that its generation requirements may increase by some increment in the next few years, the utility may want to issue an RFP that would give it the option of calling upon (undoubtedly for a price) the necessary additional increment of capacity, if and when the need materializes.

- d. What concerns, if any, are there with applying option concepts in competitive bidding in Hawaii?

RESPONSE: As a general matter, the primary concern is with whether the inclusion of a given option concept creates too much uncertainty for bidders or imposes parameters which are viewed as unacceptable, dampening the overall response to the solicitation. This could narrow the field of potential bidders and/or reduce the number of proposed solutions to the identified resource need. In such instance, the contemplated option feature might have to be abandoned by RFP designers to ensure a healthy, competitive response.

- e. For each concern identified in response to d. above, how does the CA propose such concerns be addressed?

RESPONSE: The Consumer Advocate has not conducted an extensive study of the potential drawbacks to incorporating every option concept in competitive bidding simply because the range of options to be considered cannot be identified in the context of this policy setting proceeding. Any options that might be pursued would have to be identified through an assessment of the specific needs of a given electric utility. Where it is evident that concerns regarding the potential impacts of an options feature outweigh the foreseeable benefits, the Consumer Advocate would support its elimination.

HECO/CA-IR-8.

Ref: CA SOP, page 14

Please provide a copy of the report listed in footnote 14: A Joint Proposal to State Utility Regulators: Defining Electricity-Resource Portfolio Management Responsibilities (July 2003).

RESPONSE:

Please see the attached.

HECO/CA-IR-9.

Ref: CA SOP, page 15.

Please explain how, if at all, the ISO New England GAP RFP is applicable to or illustrative as a model for competitive bidding in Hawaii.

RESPONSE:

Hawaii's utilities' needs are likely to be different, in at least some important respects, from those of Southwest Connecticut. Their specific need assessments ultimately will determine the degree to which their needs might compare.

Nonetheless, ISO New England's GAP RFP offers an illustrative example of a competitive bidding process that was recently conducted in response to a substantial, near-term need for incremental capacity resources, as may be the case for some of Hawaii's electric utilities. The ISO New England GAP RFP also is important in that it sought both supply- and demand-side resources through a single RFP. Hawaii electric utilities may likewise benefit through demand- and supply-side resource additions.

HECO/CA-IR-10.

Ref: CA SOP, page 18.

On page 18, second full paragraph, the CA concludes that the independent power market was mature and developed by 1995. Please explain in detail how a developed and mature independent power market influences or supports the CA's position regarding the eligibility of developers and utilities to competitively bid in Hawaii, the type of bid evaluation and selection criteria, the bid evaluation and selection process, and the contract provisions to be included in a competitive bidding framework in Hawaii?

RESPONSE:

A fully developed market will provide the utilities with more possibilities in terms of developers who are likely to submit bids, and resources that are to be considered to fulfill a given utility's identified need. Since the market is developed, there also is a greater likelihood that the developers who do submit bids will have "proven" their ability to produce a satisfactory product – i.e., at least some will likely have "track records" that speak to their ability to fulfill commitments set forth in their bids.

This view reflects the fact that, by 1995, the generation industry included a large number of well-established suppliers. These included entities with direct ties to public utilities such as the U.S. Generating Company, PSEG Energy and New Energy Ventures, and others that were independent of public utilities, such as AES and Calpine.

The fact that a mature generation supply industry exists means that Hawaii's electric utilities have ready access to non-utility resource options that have the potential to offer the utility and its ratepayers cost-effective alternatives. This means that there

should be a reasonable number of resource suppliers that are ready and able to offer credible proposals in response to a given solicitation. Absent such a market and such suppliers, competitive solicitations become far more tenuous.

The presence of diverse competitive suppliers offering a variety of generation supply products (i.e., power plant designs) means that Hawaii's utilities have considerable flexibility in designing RFPs to meet their particular needs. A soliciting utility's specific desires would be reflected in its bid selection criteria, its bid evaluation and selection process, and ultimately in contract provisions.

A discussion of the specifics regarding the types and kinds of evaluation criteria and processes is difficult to provide in the abstract – i.e., without knowing specific resource needs. Furthermore, specific contract provisions will require negotiation and are also dependent on the specific type of resource bid by the developer to meet the utility's identified resource need.

HECO/CA-IR-11.

Ref: CA SOP, page 19, second full paragraph.

What are the specific reasons underlying the CA's conclusion that resource plans that employ a larger number of smaller (relative to the size of larger, central-station generating plants), sometimes localized, supply- and demand-side resources are "particularly attractive" in Hawaii? Please explain in detail.

RESPONSE:

The paragraph referenced reflects the Consumer Advocate's view that large, central station additions to Hawaii's resource mix may not always be the best resource additions. Hawaii has limited sites that can support large, central station facilities. Hawaii electric utilities lack interconnections with other utilities, such that large generating units can pose reliability risks to a greater degree than "a larger number of smaller, localized, supply- and demand-side resources."

The Consumer Advocate has not concluded that large, central station supplies will never be appropriate resource additions in Hawaii. The discussion is offered to convey the point that through competitive bidding, each utility will have access to a broad array of resource options which improves the chances that "sophisticated" solutions can be developed that can offer better responses (i.e., in terms of cost-effectiveness, environmental impacts, etc.) to emergent resource needs.

HECO/CA-IR-12. **Ref: CA SOP, page 20, the paragraph on Competitive Bidding.**

- a. Is the CA of the view that “multiple objectives” should be considered and weighed in selecting resources through a competitive bidding process in Hawaii?

RESPONSE: Yes, it is the Consumer Advocate’s view that a range of factors routinely should be considered as each utility assesses its need for incremental resources.

- b. If so, please specifically and fully describe the factors other than price that are important?

RESPONSE: Some of the important factors may include, but are not limited to, generation system reliability and capacity requirements, opportunities to secure low-cost energy, renewables requirements, emissions impacts, location, risk exposure and rate impacts. The objectives to be pursued through any given resource solicitation would depend on utility needs deriving from the performance of an existing supply portfolio vis-à-vis desired performance levels. Where a utility identifies multiple objectives to be pursued through an incremental addition to its resource portfolio, the Consumer Advocate would expect multiple objectives to be considered and weighed in selecting resources through a competitive bidding process.

In keeping with basic service obligations, each electric utility is responsible for “specifically and fully” describing the full range of

factors that are important as it routinely considers potential improvements to its resource portfolio.

- c. How should contract negotiations be addressed in the competitive bidding process?

RESPONSE: Contract negotiations should be specified as an option and anticipated in competitive bidding processes. The scope and duration of such negotiations will be a function of the complexity of the “product” being solicited.

- d. Of the various factors deemed important in a competitive bidding process, which specific factors are appropriate for negotiation following bid submittal and why?

RESPONSE: The response to this question will depend on the circumstances. The Consumer Advocate is not able to speculate as to what factors will be appropriate for negotiation and under what circumstances. Hopefully, steps will be taken during the RFP design and implementation phases to minimize the range of issues to be addressed through negotiations. The Consumer Advocate suggests that circulating “standard” contracts for comment in advance of the issuance of an RFP might reduce the need for after-the-fact negotiation of contract terms.

- e. Should there be a limit on the time allotted for negotiating with each bidder? If so, please explain in detail how long the time limit should be and the reasons why. If not, please fully explain why a time limit is not needed.

RESPONSE: As provided above and in numerous responses, a generic, uniform or pre-determined scenario has not been contemplated because each variable in the process may be dependent upon the particular circumstances in specific instances. Under some circumstances, it might be necessary to limit the time allotted for negotiations. If, for example, an electric utility has an urgent need for additional generating capacity, it would be appropriate for contract negotiations to have a fair but tight timeline.

- f. Should price be subject to negotiations or fixed once the bid is submitted? Please explain your response fully.

RESPONSE: The Consumer Advocate anticipates that, as a general matter, bidders in a competitive solicitation would be held to the terms of their price bids. However, there may be circumstances that would warrant deviation from this approach. If such post-bid changes are allowed to occur, they must be justified and supported by appropriate documentation explaining the price change and negotiated offsetting costs and benefits. The Consumer Advocate anticipates that each electric utility will address this matter in the design of its RFPs.

HECO/CA-IR-13. **Ref: CA SOP, pages 20-21, the paragraph on Standard Offers.**

- a. Is the CA of the opinion that standard offers are an acceptable approach for the procurement of long-term capacity and energy products in Hawaii? If so, please fully describe the circumstances in which it may or may not be applicable in Hawaii and the underlying basis for your conclusions.

RESPONSE: Standard offer purchases can be an acceptable approach for procurement of long-term capacity and energy projects for Hawaii. As noted in our SOP, a standard offer is a simple auction format where suppliers avail themselves of predetermined price and non-price terms. Thus, a standard offer is not a competitive bidding process where bidders offer different solutions, prices and terms. The focus of this proceeding is on competitive bidding processes, which is where the Consumer Advocate has focused its attention.

The Consumer Advocate anticipates that standard offer purchases may be appropriate where (1) the circumstances of a particular electric utility are such that the non-price terms of a purchase (or set of purchases) are non-critical, and an effective clearing price can be set in advance, (2) the Commission is seeking to promote the development of a particular resource type (e.g., for environmental or other public policy reasons), and seeks to minimize the transaction costs of each purchase. Purchases under PURPA would generally meet this latter description, as suggested in the Statement of Position at 20-21.

The Consumer Advocate distinguishes between standard offer purchases and “standard form contracts,” whereby any entity seeking to contract to sell to an electric utility (either by responding to a standard offer or an RFP) would be offered a contract containing predetermined terms that may (or may not) be negotiable.

- b. Please identify the jurisdictions where standard offers have been utilized, the specific types of resources to which they have been applied, the level of success achieved in their use, and in which jurisdictions they are presently in use.

RESPONSE: Any jurisdiction that implemented a standing offer to purchase QF power at rates at or below avoided costs would be a jurisdiction in which a standard offer has been utilized. That is, the posting of avoided costs effectively establishes a standard offer in some states. The Consumer Advocate has not, however, conducted a survey of the jurisdictions in which such standard offers have been utilized.

- c. Please identify the jurisdictions where standard offers have been utilized, the specific types of resources to which they have been applied, the level of success achieved in their use, and in which jurisdictions they are presently in use.

RESPONSE: See response to part b. above.

HECO/CA-IR-14. **Ref: CA SOP, page 21, Footnote 18.**

Please explain in detail the underlying basis for the statement that “standard contracts” have been developed that seek to specify some contract terms and/or establish a starting point for subsequent contract negotiations. In your response, please provide examples where such contracts have been developed.

RESPONSE: The Consumer Advocate is aware that numerous RFPs have been issued that include “standard” or “pro forma” contracts, that are subject to modification during final contract negotiations. Some states (such as Massachusetts) required electric utilities to prepare standard contracts under their rules implementing PURPA.

The Consumer Advocate has not performed, and does not see the need for, an extensive review of the implementation of standard contracts as a prerequisite for proceeding with competitive bidding in Hawaii. It is the Consumer Advocate’s recommendation that each electric utility conduct its competitive bidding processes according to best practices in the industry, as tailored to the specific circumstances of each solicitation. If the utility (e.g., through its expert advisors) indicates that best practices dictate that a standard contract should be used to facilitate a given solicitation, it should present that recommendation to the Commission with its proposed bid package.

HECO/CA-IR-15. **Ref: CA SOP, the first paragraph on page 22 and the associated Footnote 19.**

- a. Please specifically describe all “situations in Hawaii where other methods, particularly standard offers or direct negotiations may be useful alternatives” to competitive bidding.

RESPONSE: The Consumer Advocate is not able to describe all circumstances under which it may be useful to consider alternatives to competitive bidding. Such a determination must be made after the utility has identified its need for a resource, which should occur in the context of each utility's IRP process.

The Consumer Advocate recommends that competitive bidding be implemented unless it can be demonstrated that it would not be in the public interest. Given the specific circumstances of an electric utility's need, any party that can identify an alternate approach that would better serve the public interest should be able to present that approach to the Commission.

- b. Please describe in detail the possible circumstances and specific conditions “under which an electric utility may wish to establish a standard offer for very small quantities of supply from CHP facilities”.

RESPONSE: Please see the response to Part a. above.

- c. What specific provisions would such a standard offer contain?

RESPONSE: Please see the response to Part a. above.

d. Please provide applicable examples from other jurisdictions.

RESPONSE: Please see the response to Part a., above.

HECO/CA-IR-16. **Ref: CA SOP, page 22, Footnote 20.**

- a. Is it the CA's position that competitive bidding is only applicable to third party facilities and DSM options or that all options are allowed to compete in aggregate including utility options and third-party proposed turnkey proposals (i.e., a proposal by a third-party developer which is based on a turnkey contractual option)?

RESPONSE: The Consumer Advocate's expectation is that competitive bidding would apply to both utility and non-utility proposals. Footnote 20 states the Consumer Advocate's expectation that the focus of the Commission's inquiry in this proceeding would be competitive bidding for installations that a third-party would own and operate, and the conditions under which the Commission should expect – or require – such competitive bidding to proceed.

Where it is expected that a facility will be constructed and included in an electric utility's ratebase, the existing standards for the procurement of such resource will govern. This means that to ensure cost recovery, a utility would be expected to act prudently in installing a "least-cost" resource. The Consumer Advocate anticipates that, in many instances – including the development of "turnkey" facilities – a RFP may be expected by the Commission (e.g., as the mechanism by which the utility identifies the equipment to be installed).

- b. Why would competitive bidding in the CA's view not include a bid for a project developed by third-parties but turned over to the utility on a "turnkey" basis?

RESPONSE: As indicated above, the Consumer Advocate anticipates that competitive bidding may apply to "turnkey" projects, and to facilities that would be owned and operated by third-party developers. The focus of the Consumer Advocate's Statement of Position is on the latter, because the former should reflect "business as usual" for the utilities.

- c. Please describe in detail how the CA proposes DSM resources be evaluated relative to supply-side resources in a competitive bid.

RESPONSE: Any evaluation of a DSM resource relative to a supply-side resource must be made in the context of an identified need for resources. At this time, it is not possible to develop a detailed proposal regarding how DSM resources are to be evaluated relative to supply-side resources in a competitive bid.

The Consumer Advocate can offer the observation that some jurisdictions have implemented solicitations for both supply- and demand-side resources (see Appendix 1, at 13 of 26, to the Consumer Advocate's Statement of Position). The Consumer Advocate also is aware that in other jurisdictions, a portion of the overall need requirement has been "set aside" for separate solicitation of DSM resources. The Consumer Advocate

recommends that each electric utility develop proposals for securing cost-effective DSM resources in keeping with its circumstances and the characteristics of its identified needs.

- d. Please provide examples of DSM bidding programs in other states that can serve as models for Hawaii and provide the reasons such programs may be applicable for Hawaii.

RESPONSE: The ISO New England GAP RFP offers a model for a single solicitation for supply- and demand-side resources that may apply in some circumstances. Public Service Company of Colorado recently has agreed to conduct an all-source solicitation that would include three separate solicitations (i.e., for different resource types). Likewise, California procures DSM resources in solicitations that are separate from those for long-term generating supplies. The Consumer Advocate has not surveyed DSM programs in all states, and does not have specific recommendations regarding the approaches that would be appropriate to the yet-to-be-determined specific needs of Hawaii's electric utilities. The Consumer Advocate recommends that each electric utility review DSM proposals from other states and develop proposals for securing cost-effective DSM resources in keeping with its specific circumstances and the characteristics of an identified need.

- e. Please identify the DSM contract provisions and measurements and verification methods that can be applied to ensure that the DSM measures are reliable and produce the savings proposed.

RESPONSE: The ISO New England GAP RFP included as Appendix A (available on ISO New England's web site) the "ISO New England Load Response Program Manual." That document includes specific discussion of DSM measurement and verification methods, including a discussion of "Developing a Measurement and Verification Plan for Participation in the Real-Time Profiled Response Program" (see Section 8). Contract provisions would ensure performance under any established monitoring and evaluation plan, and could include penalties (such discussed in Section 4) of the ISO New England Load Response manual.

The Consumer Advocate has not surveyed DSM contract provisions and measurements and verification methods that could be applied to ensure that the DSM measures are reliable and produce the savings proposed; nor does it have specific recommendations on these at this time. Any such recommendations would be specific to the circumstances of an electric utility's need and the DSM measures being implemented. The Consumer Advocate recommends that each electric utility should review DSM contracting, and measurement and verification methods from ISO New England and other states and develop specific approaches that it may seek to resolve these issues.

Bidders in its RFPs could be asked to address monitoring and evaluation plans in their proposals.

HECO/CA-IR-17. **Ref: CA SOP, page 23, the second bullet.**

- a. Under what circumstances are the price and non-price terms of any contract (presumably based on the bid proposal) not subject to negotiations?

RESPONSE: The conditions under which the price and non-price terms of any contract are, or are not subject to negotiation would be specific to each utility and the circumstances of each resource solicitation. Negotiations might reasonably result, for example, in changes to certain terms and conditions in return for a lower price, or because financing may be contingent upon small changes.

- b. Would financial terms of a contract, such as security requirements, liquidated damages, and similar terms and conditions be subject to negotiations?

RESPONSE: Please see the response to Part a. above.

HECO/CA-IR-18. **Ref: CA SOP, page 23, first paragraph after the three bullets.**

- a. Please explain in specific detail what is meant by the statement “it is conducive to the evaluation of different sets of resource options in a way that the other procurement methods are not”?

RESPONSE: Competitive bidding anticipates the comparison of competing resource options using price and non-price criteria. Multiple evaluation criteria are appropriate where solicitation designers anticipate that: (1) resource proposals with differing characteristics are likely to be advanced by bidders, and (2) some of, or some sets of those differing resource proposals might satisfy a given resource need better than others.

Competitive bidding is conducive to developing more sophisticated solutions to resource planning and procurement problems. It can incorporate a measure of qualitative analysis and comparison that standard offers and auctions do not, although both auctions and standard offers are useful in some circumstances. It offers a measure of transparency that direct negotiations do not, and is likely to bring a broader array of possible resource solutions into view.

- b. Is it the CA’s position that price and non-price criteria can be compared to each other?

RESPONSE: Both price and non-price criteria should be considered in evaluating competing resource proposals. Non-price criteria may be used as threshold criteria in determining bids that will receive more serious

consideration in evaluation processes. They also may be considered in weighing bids that have met any initial threshold criteria and are under consideration in later phases of evaluation processes.

- i. If so, please identify the non-price criteria that would be compared to price criteria and the factors that would be evaluated in the comparison.

RESPONSE: The Consumer Advocate recommends that each utility develop proposed evaluation criteria by which to compare proposals submitted in response to a given competitive solicitation. Those evaluation criteria should reflect the specific circumstances of the RFP, and best practices for bid evaluation design.

- ii. How does the CA propose that price and non-price factors be integrated to evaluate and select the preferred bids?

RESPONSE: The answer depends on the specifics of the circumstances under which the resource is needed. Also, please see the response to Part b.i. above.

HECO/CA-IR-19. **Ref: CA SOP, bottom of page 23 and the top of page 24.**

- a. Please provide specific examples of recent competitive procurements undertaken by small utilities in the states identified along with copies of such solicitations and the dates issued.

RESPONSE: Appendix 1 to the Consumer Advocate's Statement of Position indicates that Central Maine Power's ("CMP") competitive bid process had "evolved into all-source solicitations" (see page 10) and that "in previous RFPs, CMP has issued supply-side and DSM solicitations simultaneously" (see page 12; the date of that publication is December 1992). CMP currently routinely procures its "standard offer" supplies through competitive bidding processes.

Unitil, a small New Hampshire electric utility, conducted a competitive solicitation for all requirements service in the late-2002 / early-2003 timeframe. Unitil is planning to issue another RFP for power supplies in August, 2005.

The Consumer Advocate does not have copies of the solicitations or the specific dates on which the above-referenced RFPs were issued.

- b. What is the basis for the statement that these utilities have been "successful" with all-source solicitations that were open to proposals from both supply and demand-side bidders? Please describe what the CA means by the term "successful" in this context.

RESPONSE: The Central Maine Power all-source solicitations were successful in that supply- and demand-side resources were secured that met the

solicitation criteria at prices below the utility's avoided costs. For the Unitil solicitation identified in response to part a. above, the company was able to secure a reliable supply of electricity for its customers at prices reflecting market clearing prices in the underlying competitive wholesale power market.

- c. Please fully explain how these solicitations are relevant for Hawaii? What specific features of these solicitations by small utilities should be adopted in Hawaii, what features should be rejected, and why?

RESPONSE: These solicitations are relevant to Hawaii in that they demonstrate that small electric utilities (meaning utilities of a size and with the financial, personnel and technical resources akin to those of Hawaii's electric utilities) can use competitive bidding processes to acquire needed, cost-effective resources. The specific design features of any RFP issued by a Hawaii electric utility are expected to be specific to the utility and its particular needs.

- d. Is the CA aware of any small isolated utilities (i.e., systems without interconnections to other utilities or merchants) that recently completed competitive procurements?

RESPONSE: The Consumer Advocate is aware of several island systems where competitive procurements were conducted to secure needed power supplies. These include Kauai in 1996, Oahu in 1987, and Vancouver Island (Canada) in 2004. Nunavut (Canada's northernmost province) issued an RFP for 1.3 MW of wind energy

in 2003. In April of 1999, the U.S. Department of Energy issued an RFP to install five small wind turbines on Block Island (Rhode Island). RFPs for power supplies were issued by Puerto Rico in the mid-1990s and Nantucket earlier in the decade.

Note that HECO's affiliate, Renewable Hawaii, Inc. recently initiated a competitive solicitation for renewable resources in March 2005. Also, the Consumer Advocate emphasizes that competitive bidding processes do not require that contracts be signed with an unworthy party; indeed, the Consumer Advocate would not support this.

- e. If the response to part d is "yes", please identify the utilities, provide a copy of the solicitations, and the dates such solicitations were issued.

RESPONSE: The Consumer Advocate does not have this information.

HECO/CA-IR-20. **Ref: CA SOP, page 24, first full paragraph.**

- a. Please specifically explain the basis for the conclusion that “competitive bidding does not require substantial incremental cost relative to the planning and resource development activities that utilities must perform”.

RESPONSE: The referenced sentence would better state “Competitive bidding does not require substantial incremental cost relative to the potential savings and other benefits that might be achieved.” This is not intended to be an absolute statement. The Consumer Advocate notes, on page 38 of its Statement of Position, for example, that “there may be circumstances in which the potential cost [savings] and other benefits that might be achieved through a competitive bidding process are likely to fall short of the costs to administer a fair, effective solicitation.”

It is the Consumer Advocate’s view that, in many instances, the costs to design and implement competitive bidding processes be cost-effective, even to small utilities. This is based on the observation that the costs of the capacity and energy typically acquired by electric utilities are substantial, often involving contracts for tens of millions of dollars (and more) annually over twenty to thirty years.

Competitive bidding is a common mechanism for substantial procurements in many industries, particularly those that encompass investments in major infrastructure projects. The frequency with

which even small utilities have relied on competitive bidding speaks to the cost-effectiveness of this approach to procurement.

- b. Please provide an estimate of the costs incurred by each of these small utilities in undertaking a competitive bidding process.

RESPONSE: The Consumer Advocate can not provide an estimate of the costs to small electric utilities to design and implement competitive bidding processes because such costs would depend on the nature of the solicitation being conducted, and the utility's anticipated level of participation in the process.

The Consumer Advocate accepts that there may be instances in which the costs of designing and implementing a competitive bidding process would exceed the foreseeable benefits. This will seldom be the case, but it is possible. The Consumer Advocate assumes that the HECO Companies have sufficient internal capability to effectively administer a competitive solicitation. The Consumer Advocate also assumes that Hawaii's electric utilities will be able to draw upon the experience of others in developing and implementing competitive bidding processes. The Consumer Advocate also notes that, as a given electric utility's experience grows in administering specific types of competitive bidding processes, the associated costs will begin to diminish.

- c. Do these estimates include the cost of an Independent Observer? If so, what was the cost of the Independent observer?

RESPONSE: Independent observers may be necessary in some circumstances (e.g., where a utility affiliate is bidding). However, there may be circumstances in which an independent observer would not be needed.

The Consumer Advocate does not have specific estimates of the costs of an independent observer, which, in any event, would depend on the scope of its responsibilities in any given solicitation process.

- d. How did the costs incurred by each of these small utilities in undertaking a competitive bidding process compare to the measurable cost savings if any realized by securing resources through a competitive bidding process?

RESPONSE: The Consumer Advocate has not performed any analysis of the costs incurred in competitive bidding processes relative to benefits obtained since the requested cost information is not publicly available. Furthermore, any determination of the costs incurred for a competitive bidding process relative to the benefits obtained must be based on the specific facts supporting the utility's identified need for a resource through the IRP process. In addition, it should be noted that the benefits of competitive bidding include cost savings, and other benefits, which may include improved environmental performance, etc.

HECO/CA-IR-21.

Ref: CA SOP, page 29, first paragraph at the top of the page.

- a. Is it the CA's position that DSM resources will be procured separately as is currently the case or should DSM be part of an all-source competitive bidding process? Please fully explain and provide the basis for the CA's position, including specific references to other utility's competitive bidding processes (if applicable).

RESPONSE:

The answer depends on the specific facts pertaining to the need for DSM and other resources, as identified in each utility's IRP. In some circumstances, it may be appropriate to procure DSM resources through all-source competitive bidding processes that might incorporate one or multiple RFPs. In some cases, a single RFP soliciting supply- and demand-side resources may be feasible. However, the Consumer Advocate recognizes that such approach may not be practical in all circumstances. In such cases, the Consumer Advocate would be open to alternate approaches.

For example, in some circumstances it may be appropriate to set aside a portion of an identified need "block" for DSM services. The electric utility might address its need block by conducting a solicitation for demand-side measures that is separate from, but parallel to its solicitation for supply-side proposals.

- b. If DSM should be part of an all-source process, please describe in detail how the competitive bidding process should be structured to accommodate DSM options. Please provide the basis for the CA's position, including specific references to other utility's competitive bidding processes (if applicable).

RESPONSE: The Consumer Advocate cannot provide a detailed explanation as to how an all-source, competitive bidding process should be structured to accommodate DSM options because the details of the process (including the options to be "accommodated") will depend on the specific circumstances of a given electric utility and its resource needs. There are examples of electric utilities that have conducted all-source competitive bidding processes, as reflected in Appendix 1 (at 13 of 26) to the Consumer Advocate's Statement of Position to provide an illustration of how other utilities have done this process.

- c. Please identify the names of all utilities that are currently including DSM programs as part of an all source competitive bidding process.

RESPONSE: Public Service of Colorado is an example of a utility that is implementing an all-source bidding process. Fewer electric utilities currently are including DSM programs as part of their all resource competitive bidding processes because many of the states have restructured their power markets to a retail competitive environment. Under retail competition, customers typically are free to select their own supply- and demand-side resource providers.

Utilities often continue to support DSM programs, but such support is provided through "system benefits charges" that create a funding mechanism for DSM that is separate from power supply transactions.

- d. Please identify the names of all utilities that are currently including DSM programs as part of a competitive bidding process that is not an all source competitive bidding process.

RESPONSE: The Consumer Advocate has not conducted a survey to determine which states use competitive bidding in this limited way. Many states that have implemented retail competition continue to support DSM investments through system benefits charges. There is not "all source competitive bidding process" in such states.

HECO/CA-IR-22.

Ref: CA SOP, page 29, second paragraph.

- a. Please fully explain what the CA means by the term “successfully implemented” in this context.

RESPONSE:

The referenced paragraph features the results of ISO New England's GAP RFP. The paragraph explains that the RFP was successful in securing approximately 125 MW of needed capacity during the summer of 2004, and is expected to provide up to 255 MW by the summer of 2007. The paragraph also explains that the resources performed at a very high level in that they were available when called upon during the summer of 2004. For these reasons, the Consumer Advocate views the GAP RFP as successfully implemented.

- b. Please provide the basis for the statement that “competitive bidding processes open to bids from demand-side providers have been successfully implemented”. As part of this response please identify the names of the utilities, the date of such “competitive bidding processes open to bids from demand-side providers” that have been “successfully implemented”, and the size and type of demand-side management resources that were acquired.

RESPONSE:

The GAP RFP offers an example of an RFP, in this case issued by ISO New England, that was open to responses from both supply- and demand-side providers. As indicated, the capacity purchased (as identified in the response to Part a. above) is from demand reduction, which takes the form of emergency generation and reductions in demand from more traditional conservation resources. The Consumer Advocate has not, however, performed

a comprehensive list of the states with competitive bidding processes that are open to bids from demand-side providers.

- c. For each "successfully implemented" "competitive bidding process" that was open to bids from demand-size providers, please provide the names of the utilities that implemented such "successfully implemented" competitive bidding process, when such process was implemented, describe how they were implemented, and provide a copy of the solicitations.

RESPONSE: Please see the response to Part b. above.

- d. Should DSM resources be solicited as a component of an all-source bidding process or as a separate process?

RESPONSE: Please see the response to HECO/CA-IR-21a.

- e. Please provide supporting documentation for the basis to the response to part d above.

RESPONSE: Please see the response to HECO/CA-IR-21a.

HECO/CA-IR-23.

Ref: CA SOP, page 29, second paragraph.

- a. Please explain the relevance of the ISO New England December 2003 RFP for Southwest Connecticut for competitive bidding in Hawaii.

RESPONSE: Please see the response to HECO/CA-IR-9.

- b. Is the process undertaken by ISO New England similar to the competitive bidding program the CA envisions for Hawaii? Please identify the features of the program that the CA believes should be included and the features of the program that the CA believes should not be included in a Hawaii competitive bidding program, and fully explain the basis for the CA's position.

RESPONSE: The Consumer Advocate anticipates that Hawaii's electric utilities should identify their resource needs through the IRP process and take action to address those needs through well-designed competitive bidding processes. The Consumer Advocate has not studied the ISO New England GAP RFP to determine which features might be applicable to RFPs that might be issued by Hawaii's electric utilities under certain circumstances. The reason is because such determination cannot be done without knowing each utility's specific need for resources, as determined through the IRP process. If a Hawaii electric utility identifies a substantial near-term need for additional capacity resources, the Consumer Advocate would recommend consideration of the GAP RFP as potentially instructive in the design of a competitive bidding process.

- c. Is it the position of the CA that emergency generation be classified as DSM? (e.g., "The capacity is from demand reduction, which in this instance includes both emergency generation and reductions in electricity use, and from more traditional conservation resources"). Please fully explain the basis for the CA's response.

RESPONSE: Electric utilities typically access the generation that can be produced by emergency generators by signing contracts with unit owners that enable interruption of the utility supply to that customer during peak load conditions. The Consumer Advocate anticipates that such contracts with interruptible customers would be treated as demand-side resources in Hawaii.

If an electric utility signs a contract with the owner of a piece of generating equipment that enables the utility to dispatch the unit on an occasional basis, i.e., during system emergencies, that facility might be classified as a supply-side resource.

HECO/CA-IR-24. **Ref: CA SOP, page 31.**
Please provide a copy of the ISO New England GAP RFP and the Long Island Power Authority RFP issued in February 2005.

RESPONSE: Please find the requested documents attached.

HECO/CA-IR-25. **Ref: CA SOP, page 31, last line on the page.**

- a. Please provide the basis for the CA's statement that "competitive bidding processes such as these are replicable in Hawaii". As part of the response, identify the factors that are in existence in Hawaii that makes the CA believe that such competitive bidding processes are "replicable in Hawaii".

RESPONSE: The statement identified reflects the Consumer Advocate's view that competitive bidding processes to solicit demand-side resources or fuel cells in response to immediate, specific, local needs on electric utility systems, could be designed and implemented in Hawaii. The electric utilities in Hawaii have demonstrated that they are fully capable of addressing the various "factors" that must be addressed in designing and implementing competitive bidding processes since the utilities have already engaged in a competitive bidding process to procure resources, as noted in the Consumer Advocate's Statement of Position. The Consumer Advocate assumes that any future efforts to do so will be guided by the ever-growing base of experience in competitive bidding.

- b. Have these RFPs been issued as part of an all-source RFP or are they targeted to specific applications?

RESPONSE: The ISO New England GAP RFP discussed on page 31 of the Consumer Advocate's Statement of Position was open to supply- and demand-side proposals. The LIPA RFP (also discussed on page 31 of the Consumer Advocate's Statement of Position) focuses on a specific resource type in a specific location.

HECO/CA-IR-26.

Ref: CA SOP, page 32.

The CA indicated that competitive bidding might be an appropriate procurement mechanism for customer-based DG applications.

- a. Please describe in detail (1) each step in such a process, and (2) how such a process would be designed and implemented in situations where multiple parties (i.e., the non-utility host site, the utility, and the third-party provider) would be involved in the process.

RESPONSE:

The Consumer Advocate has not developed a detailed proposal for how such bidding would be conducted because the specific facts supporting the utility's identified need for the resource as determined through the IRP are not known. The Consumer Advocate will offer that among the approaches that each electric utility should consider would be one in which the utility issues an RFP for proposals from customers who would develop and implement DG in a particular location on the utility's system, in response to the utility's identified needs. The ISO New England GAP RFP included a request for such proposals. Also see the response to HECO/CA-IR-24.

- b. Would host customers likely solicit and select the preferred supplier for the DG application through some form of competitive procurement process? Please fully explain and provide the basis for the CA's response.

RESPONSE:

If a host customer intends to have a third-party supplier design and install distributed generation equipment, the host customer (as an entity not regulated by the Commission) would be free to do so using whatever procurement mechanism it deems appropriate, but

would be subject to the established interconnection requirements of the electric utility.

- c. Please list all utilities that have involved customer-based DG applications as part of a competitive bidding process, and provide the date of such competitive bidding process.

RESPONSE: The Consumer Advocate has not conducted a study to identify all utilities that have involved customer-based DG applications as part of a competitive bidding process. The ISO New England GAP RFP cited in response to Part a., above provides an example of such a competitive bidding process.

HECO/CA-IR-27. **Ref: CA SOP, page 32, second paragraph.**

Please identify and fully explain all circumstances when it would be “sensible” for the utility to provide “incentives for cost-effective installations”.

RESPONSE: The Consumer Advocate does not believe that it can identify “all” circumstances in which it would be sensible for a utility to provide incentives for the installation of cost-effective customer-sited DG. As stated on page 32 of the Statement of Position, the Consumer Advocate sees it as each utility’s role to clearly identify its specific locational requirements in the IRP process and, where sensible, to provide incentives for cost-effective distributed generation installations.

The Consumer Advocate does not at this time have a specific proposal for calculating the incentive. Such proposal would require further consideration of the specific circumstances that Hawaii’s electric utilities may seek to address. Nonetheless, the Consumer Advocate can envision certain types of incentives that may be appropriate under certain circumstances. These could run the gamut from relatively modest “energy partners” certificates (by which the utility would formally acknowledge that the customer is contributing to system reliability, to short- or long-term rate discounts, to more substantial cash payments. In the case of the latter, the utility might decide to advertise and provide cash payments directly to customers who install DG equipment. Such payments would be “sensible” to the extent that the costs of such

incentives would be less than the costs that the utility might otherwise incur in addressing local load growth.

The Consumer Advocate can envision other circumstances under which such incentives might be appropriate. These might include, for example, circumstances in which environmental and/or other considerations limit a utility's resource options (or render them very costly), such that customer-sited DG represents an attractive alternative, once again, even after consideration of the cost of any incentives needed to encourage its development in a specific locale.

HECO/CA-IR-28. **Ref: CA SOP, page 32, next to last sentence.**

In discussing the utility's role in DG, the sentence states one of the roles is to "provide incentives for cost-effective installations". Please fully identify and explain what "incentives" are being referenced. Please fully explain whether the utility will be able to receive cost recovery from its ratepayers for paying such "incentives", and provide the basis for the CA's response. If the utility is not able to obtain cost recovery from its ratepayers for paying such incentives, who will be responsible for the cost of such incentives? Please identify all utilities that currently offer such "incentives".

RESPONSE:

Please see the response to HECO/CA-IR-27. It is the Consumer Advocate's view that, depending on the specific circumstances, it may or may not be appropriate for the Commission to allow the costs of incentives to promote customer-sited DG to be recovered through rates. However, as a general matter, the Consumer Advocate would support the recovery of costs incurred by a utility in addressing its needs through cost-effective DG investments. The Consumer Advocate would propose that cost-effectiveness be evaluated relative to other available (through competitive bidding and otherwise) resource options.

HECO/CA-IR-29. **Ref: CA SOP, page 34.**

- a. Please provide a copy of the NYSEDA RFP and Massachusetts Technology Collaborative RFP referenced.

RESPONSE: The requested RFPs are attached.

- a. What products are these RFPs soliciting and would such an approach be applicable for Hawaii? Please fully explain your response. As part of the response, please identify the factors in Hawaii that make the CA believe that such an approach would be applicable to Hawaii.

RESPONSE: These RFPs solicit the attributes associated with generating facilities that meet the definitions of renewable generating capacity in New York and New England. In simple terms, for each "green kWh," they separate the "green" from the "kWh" and acquire the "green" (i.e., renewable) attribute from kWh's produced. The green attributes can be used to satisfy a state's renewable portfolio standard ("RPS"). The payments received in exchange for the green attributes facilitate renewable project financing and development.

These RFPs are identified as examples of how competitive bidding currently is being used to acquire power "products" and to promote the development of renewable generation on the mainland. After the utilities identify their resource needs in the IRP process, a determination must be made as to how the competitive bid process will solicit the resources to fulfill that need. It is not possible to compare the specific proposals of another utility to

proposals that may be offered in Hawaii when the specific resource need for which the proposal is sought has not been identified.

HECO/CA-IR-30. **Ref: CA SOP, page 35 and 36 (beginning with last paragraph on page 35).**

The CA indicates that contractual terms will be important regarding the reliability and operational performance impacts of non-utility facilities on Hawaii's utilities. Please list and describe each of the contractual terms and conditions that the CA believes are required to address these issues, and discuss which issue each term and condition is intended to address and how such term and condition addresses such issue.

RESPONSE: The Consumer Advocate is not able to identify the specific or general contractual terms that would be needed to address the reliability and operational impacts of non-utility facilities without knowing the specific circumstances of each utility's need, and the type, size, location and potentially other characteristics of proposed facilities. The Consumer Advocate is confident, based on the years of experience that HECO has interacting with independent power producers that provide power to its system as a consequence of a prior competitive solicitation, that HECO has a keen understanding of the types of contractual terms that can be important in specific circumstances.

The Consumer Advocate observes that the recent Amendments 5 and 6 to HECO's contract with Kalaeloa bear witness to HECO's experience with such issues, as does the system impact study recently conducted by MECO in relation to Kalaeloa's project proposal.